

EXHIBIT NO. 11

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May 17, 1996

Via Facsimile: 236-6067  
Ms. Cathy Lexin  
Labor Relations Manager  
City of San Diego  
202 C Street, 9th Floor  
San Diego, CA 92101

Re: MEA'S PROPOSAL FOR RESOLUTION OF RETIREMENT SYSTEM ISSUES  
AND CONTRACT EXTENSION COVERING FY98

Dear Ms. Lexin:

What follows is the proposal which MEA's Negotiating Team has authorized me to submit for the CITY's consideration in connection with the on-going discussions regarding retirement system issues and the invitation to discuss an extension of the current MOU for FY98.

Since this submittal is written, certain preliminary remarks are in order as would be made in connection with an oral presentation.

I cannot state strongly enough how committed MEA's leadership and Negotiating Team are to the following outcomes: (1) a vast improvement in the retirement formula for general members in view of the resources available to the system [which resources constitute participants' money], and in view of the richness of the present and projected benefits for safety members by comparison; and (2) parity in general salary increases for all CITY employees regardless of job classification.

I also cannot over-emphasize that the level of employee scepticism and distrust regarding any tampering with funding methods related to the retirement system is enormous and will require a yeoman's effort by every person associated with MEA to overcome. MEA will not undertake this formidable task unless the gains in benefit levels for the employees MEA represents are clearly respectable and credible rather than de minimus. Frankly, at this juncture, the proposal to increase the general member's formula from 1.48% to 1.75% at age 55 is de minimus when contrasted with a proposed safety formula of 3% at age 55 and 2.74% at age 50.

The Negotiating Team has taken all of the foregoing into consideration in formulating the proposal which follows, as well as the reality that CITY has agreed to spend an additional \$3 million

from the FY 97 general fund in order to give police officers a 3% general salary increase 6 months ahead of the same increase for the employees we represent, and in order to give the vast majority of CITY's police officers a shift differential which represents a significant "general salary increase."

### PROPOSAL

#### (1) Retirement

- \* Formula for general members to be improved to a factor of 2.24% at age 55, with proportionate increases for each additional year through age 65;

- \* Past and prospective liability for the cost of this formula improvement to be borne entirely by CITY and/or system;

- \* No cap on amount of retirement benefit;

- \* Formula for lifeguards and amount of offset to be increased to same level as enjoyed by firefighters now and in the future;

- \* All other improvements in benefits as proposed in CITY's May 2nd document, including but not limited to those additional benefits not therein described which CITY extends to safety members (except as to formula);

- \* MEA's active participation in Task Force re health insurance issues.

#### (2) General Salary Increase

- \* 4% effective July 1, 1997

#### (3) Other Issues [Note: These are not stated in "priority" order.]

- \* No restrictions for FY 97-98 on MEA's right to bring forward special salary adjustment/new class requests to the Civil Service Commission for action;

- \* Increase in mileage reimbursement to be proposed based on analysis in progress; reimbursement checks must be presented to employee within 2 weeks of employee's submittal to supervisor;

- \* Reopener for FY98 regarding Flexible Benefit Plan dollar value and reopener to permit MEA to offer plan design/benefit changes related to the plans MEA sponsors;

- \* Add cost of bicycle lockers as permissible subsidy under transportation incentives;

Page 3.

- \* Improvement in reimburseability of seminar/training events to be proposed based on analysis in progress;

- \* Reinstate CITY's payment of health insurance premiums for employees injured on the job [and otherwise eligible for flexible benefits] while receiving temporary total disability or vocational rehabilitation benefits;

- \* Calculate LTD benefits by reference to the basic bi-weekly earnings in effect for the employee who is injured or ill on the day he/she is removed from work due to the disabling condition;

- \* Implement 4/10 schedule for lifeguards, excluding 24-hour shifts;

- \* Reopener for FY98 regarding Uniform Allowance and Reimbursement issues;

- \* Clarifications needed regarding employees' eligibility for shift differential in Police Department under current MOU terms;

- \* Include CITY's propopsed AR re Competition in MOU;

- \* Modified agency shop to protect MEA's legitimate institutional needs for stability and budget-planning [akin to CITY's needs for stabilization and contingency reserves];

- \* Additional language proposals regarding performance reports, appeal timelines and analysts to be submitted.

We believe that this proposal is comprehensive and includes reference to all issues, even if specifics are lacking, in order to alert you regarding at least the subject matter. However, we did give the Negotiating Team until Tuesday to ascertain by informal dialogue in the workplace whether or not there are any other issues of sufficient importance that we must raise them now in connection with premature meet and confer on a contract extension.

We shall look forward to meeting with you on Monday, May 20th and will confirm the time with you by the close of business today.

Sincerely,

  
Ann M. Smith

\*\*\*END\*\*\*

EXHIBIT NO. 12

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER I - GENERAL PROVISIONS**

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**Section 401. Congressional declaration of findings, purposes, and policy**

(a) Standards for labor-management relations

The Congress finds that, in the public interest, it continues to be the responsibility of the Federal Government to protect employees' rights to organize, choose their own representatives, bargain collectively, and otherwise engage in concerted activities for their mutual aid or protection; that the relations between employers and labor organizations and the millions of workers they represent have a substantial impact on the commerce of the Nation; and that in order to accomplish the objective of a free flow of commerce it is essential that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations, particularly as they affect labor-management relations.

(b) Protection of rights of employees and the public

The Congress further finds, from recent investigations in the labor and management fields, that there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.

(c) Necessity to eliminate or prevent improper practices

The Congress, therefore, further finds and declares that the enactment of this chapter is necessary to eliminate or prevent improper practices on the part of labor organizations, employers, labor relations consultants, and their officers and representatives which distort and defeat the policies of the Labor Management Relations Act, 1947, as amended [29 U.S.C. 141 et seq.], and the Railway Labor Act, as amended [45 U.S.C. 151 et seq.], and have the

tendency or necessary effect of burdening or obstructing commerce by (1) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (2) occurring in the current of commerce; (3) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods into or from the channels of commerce, or the prices of such materials or goods in commerce; or (4) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing into or from the channels of commerce.

EXHIBIT NO. 13



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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER II - BILL OF RIGHTS OF MEMBERS OF LABOR**  
**ORGANIZATIONS**

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**Section 414. Right to copies of collective bargaining agreements**

It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each collective bargaining agreement made by such labor organization with any employer to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. The provisions of section 440 of this title shall be applicable in the enforcement of this section.

EXHIBIT NO. 14

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER III - REPORTING BY LABOR ORGANIZATIONS, OFFICERS**  
**AND EMPLOYEES OF LABOR ORGANIZATIONS, AND EMPLOYERS**

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**Section 433. Report of employers**

(a) Filing and contents of report of payments, loans, promises, agreements, or arrangements

Every employer who in any fiscal year made -

(1) any payment or loan, direct or indirect, of money or other thing of value (including reimbursed expenses), or any promise or agreement therefor, to any labor organization or officer, agent, shop steward, or other representative of a labor organization, or employee of any labor organization, except (A) payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution and (B) payments of the kind referred to in section 186(c) of this title;

(2) any payment (including reimbursed expenses) to any of his employees, or any group or committee of such employees, for the purpose of causing such employee or group or committee of employees to persuade other employees to exercise or not to exercise, or as the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing unless such payments were contemporaneously or previously disclosed to such other employees;

(3) any expenditure, during the fiscal year, where an object thereof, directly or indirectly, is to interfere with, restrain, or coerce employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing, or is to obtain information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

(4) any agreement or arrangement with a labor relations consultant or other independent contractor or organization pursuant to which such person undertakes activities where an object thereof, directly or indirectly, is to persuade employees

to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing, or undertakes to supply such employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding; or

(5) any payment (including reimbursed expenses) pursuant to an agreement or arrangement described in subdivision (4);

shall file with the Secretary a report, in a form prescribed by him, signed by its president and treasurer or corresponding principal officers showing in detail the date and amount of each such payment, loan, promise, agreement, or arrangement and the name, address, and position, if any, in any firm or labor organization of the person to whom it was made and a full explanation of the circumstances of all such payments, including the terms of any agreement or understanding pursuant to which they were made.

(b) Persuasive activities relating to the right to organize and bargain collectively; supplying information of activities in connection with labor disputes; filing and contents of report of agreement or arrangement

Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly -

(1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding;

shall file within thirty days after entering into such agreement or arrangement a report with the Secretary, signed by its president and treasurer or corresponding principal officers, containing the name under which such person is engaged in doing business and the address of its principal office, and a detailed statement of the terms and conditions of such agreement or arrangement. Every such person shall file annually, with respect to each fiscal year during which payments were made as a result of such an agreement or arrangement, a report with the Secretary, signed by its president

and treasurer or corresponding principal officers, containing a statement (A) of its receipts of any kind from employers on account of labor relations advice or services, designating the sources thereof, and (B) of its disbursements of any kind, in connection with such services and the purposes thereof. In each such case such information shall be set forth in such categories as the Secretary may prescribe.

(c) Advisory or representative services exempt from filing requirements

Nothing in this section shall be construed to require any employer or other person to file a report covering the services of such person by reason of his giving or agreeing to give advice to such employer or representing or agreeing to represent such employer before any court, administrative agency, or tribunal of arbitration or engaging or agreeing to engage in collective bargaining on behalf of such employer with respect to wages, hours, or other terms or conditions of employment or the negotiation of an agreement or any question arising thereunder.

(d) Exemption from filing requirements generally

Nothing contained in this section shall be construed to require an employer to file a report under subsection (a) of this section unless he has made an expenditure, payment, loan, agreement, or arrangement of the kind described therein. Nothing contained in this section shall be construed to require any other person to file a report under subsection (b) of this section unless he was a party to an agreement or arrangement of the kind described therein.

(e) Services by and payments to regular officers, supervisors, and employees of employer

Nothing contained in this section shall be construed to require any regular officer, supervisor, or employee of an employer to file a report in connection with services rendered to such employer nor shall any employer be required to file a report covering expenditures made to any regular officer, supervisor, or employee of an employer as compensation for service as a regular officer, supervisor, or employee of such employer.

(f) Rights protected by section 158(c) of this title

Nothing contained in this section shall be construed as an amendment to, or modification of the rights protected by, section 158(c) of this title.

(g) "Interfere with, restrain, or coerce" defined

The term "interfere with, restrain, or coerce" as used in this section means interference, restraint, and coercion which, if done with respect to the exercise of rights guaranteed in section 157 of this title, would, under section 158(a) of this title, constitute an unfair labor practice.

EXHIBIT NO. 15

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER III - REPORTING BY LABOR ORGANIZATIONS, OFFICERS**  
**AND EMPLOYEES OF LABOR ORGANIZATIONS, AND EMPLOYERS**

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**Section 436. Retention of records**

Every person required to file any report under this subchapter shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Secretary may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

EXHIBIT NO. 16



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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER V - ELECTIONS**

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**Section 481. Terms of office and election procedures**

- (a) Officers of national or international labor organizations;  
manner of election

Every national or international labor organization, except a federation of national or international labor organizations, shall elect its officers not less often than once every five years either by secret ballot among the members in good standing or at a convention of delegates chosen by secret ballot.

- (b) Officers of local labor organizations; manner of election

Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing.

- (c) Requests for distribution of campaign literature; civil action for enforcement; jurisdiction; inspection of membership lists; adequate safeguards to insure fair election

Every national or international labor organization, except a federation of national or international labor organizations, and every local labor organization, and its officers, shall be under a duty, enforceable at the suit of any bona fide candidate for office in such labor organization in the district court of the United States in which such labor organization maintains its principal office, to comply with all reasonable requests of any candidate to distribute by mail or otherwise at the candidate's expense campaign literature in aid of such person's candidacy to all members in good standing of such labor organization and to refrain from discrimination in favor of or against any candidate with respect to the use of lists of members, and whenever such labor organizations or its officers authorize the distribution by mail or otherwise to members of campaign literature on behalf of any candidate or of the labor organization itself with reference to such election, similar distribution at the request of any other bona fide candidate shall be made by such labor organization and its officers, with equal treatment as to the expense of such distribution. Every bona fide

candidate shall have the right, once within 30 days prior to an election of a labor organization in which he is a candidate, to inspect a list containing the names and last known addresses of all members of the labor organization who are subject to a collective bargaining agreement requiring membership therein as a condition of employment, which list shall be maintained and kept at the principal office of such labor organization by a designated official thereof. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots.

(d) Officers of intermediate bodies; manner of election

Officers of intermediate bodies, such as general committees, system boards, joint boards, or joint councils, shall be elected not less often than once every four years by secret ballot among the members in good standing or by labor organization officers representative of such members who have been elected by secret ballot.

(e) Nomination of candidates; eligibility; notice of election; voting rights; counting and publication of results; preservation of ballots and records

In any election required by this section which is to be held by secret ballot a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office (subject to section 504 of this title and to reasonable qualifications uniformly imposed) and shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof. Not less than fifteen days prior to the election notice thereof shall be mailed to each member at his last known home address. Each member in good standing shall be entitled to one vote. No member whose dues have been withheld by his employer for payment to such organization pursuant to his voluntary authorization provided for in a collective bargaining agreement shall be declared ineligible to vote or be a candidate for office in such organization by reason of alleged delay or default in the payment of dues. The votes cast by members of each local labor organization shall be counted, and the results published, separately. The election officials designated in the constitution and bylaws or the secretary, if no other official is designated, shall preserve for one year the ballots and all other records pertaining to the election. The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this subchapter.

(f) Election of officers by convention of delegates; manner of

conducting convention; preservation of records

When officers are chosen by a convention of delegates elected by secret ballot, the convention shall be conducted in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of this subchapter. The officials designated in the constitution and bylaws or the secretary, if no other is designated, shall preserve for one year the credentials of the delegates and all minutes and other records of the convention pertaining to the election of officers.

(g) Use of dues, assessments or similar levies, and funds of employer for promotion of candidacy of person

No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in any election subject to the provisions of this subchapter. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

(h) Removal of officers guilty of serious misconduct

If the Secretary, upon application of any member of a local labor organization, finds after hearing in accordance with subchapter II of chapter 5 of title 5 that the constitution and bylaws of such labor organization do not provide an adequate procedure for the removal of an elected officer guilty of serious misconduct, such officer may be removed, for cause shown and after notice and hearing, by the members in good standing voting in a secret ballot, conducted by the officers of such labor organization in accordance with its constitution and bylaws insofar as they are not inconsistent with the provisions of this subchapter.

(i) Rules and regulations for determining adequacy of removal procedures

The Secretary shall promulgate rules and regulations prescribing minimum standards and procedures for determining the adequacy of the removal procedures to which reference is made in subsection (h) of this section.

EXHIBIT NO. 17

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER III - REPORTING BY LABOR ORGANIZATIONS, OFFICERS**  
**AND EMPLOYEES OF LABOR ORGANIZATIONS, AND EMPLOYERS**

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**Section 439. Violations and penalties**

(a) Willful violations of provisions of subchapter

Any person who willfully violates this subchapter shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(b) False statements or representations of fact with knowledge of falsehood

Any person who makes a false statement or representation of a material fact, knowing it to be false, or who knowingly fails to disclose a material fact, in any document, report, or other information required under the provisions of this subchapter shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(c) False entry in or willful concealment, etc., of books and records

Any person who willfully makes a false entry in or willfully conceals, withholds, or destroys any books, records, reports, or statements required to be kept by any provision of this subchapter shall be fined not more than \$10,000 or imprisoned for not more than one year, or both.

(d) Personal responsibility of individuals required to sign reports

Each individual required to sign reports under sections 431 and 433 of this title shall be personally responsible for the filing of such reports and for any statement contained therein which he knows to be false.

EXHIBIT NO. 18

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER VI - SAFEGUARDS FOR LABOR ORGANIZATIONS**

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**Section 501. Fiduciary responsibility of officers of labor organizations**

(a) Duties of officers; exculpatory provisions and resolutions void

The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b) Violation of duties; action by member after refusal or failure by labor organization to commence proceedings; jurisdiction; leave of court; counsel fees and expenses

When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) of this section and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district court of the United

States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Embezzlement of assets; penalty

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.



EXHIBIT NO. 19

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 11 - LABOR-MANAGEMENT REPORTING AND DISCLOSURE**  
**PROCEDURE**  
**SUBCHAPTER VI - SAFEGUARDS FOR LABOR ORGANIZATIONS**

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**Section 503. Financial transactions between labor organization and officers and employees**

(a) Direct and indirect loans

No labor organization shall make directly or indirectly any loan or loans to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

(b) Direct or indirect payment of fines

No labor organization or employer shall directly or indirectly pay the fine of any officer or employee convicted of any willful violation of this chapter.

(c) Penalty for violations

Any person who willfully violates this section shall be fined not more than \$5,000 or imprisoned for not more than one year, or both.

EXHIBIT NO. 20

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**United States Code**  
**TITLE 29 - LABOR**  
**CHAPTER 7 - LABOR-MANAGEMENT RELATIONS**  
**SUBCHAPTER IV - LIABILITIES OF AND RESTRICTIONS ON LABOR AND**  
**MANAGEMENT**

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**Section 186. Restrictions on financial transactions**

(a) Payment or lending, etc., of money by employer or agent to employees, representatives, or labor organizations

It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value -

(1) to any representative of any of his employees who are employed in an industry affecting commerce; or

(2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce; or

(3) to any employee or group or committee of employees of such employer employed in an industry affecting commerce in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing; or

(4) to any officer or employee of a labor organization engaged in an industry affecting commerce with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees or as such officer or employee of such labor organization.

(b) Request, demand, etc., for money or other thing of value

(1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) of this section.

(2) It shall be unlawful for any labor organization, or for any person acting as an officer, agent, representative, or employee of

such labor organization, to demand or accept from the operator of any motor vehicle (as defined in section 13102 of title 49) employed in the transportation of property in commerce, or the employer of any such operator, any money or other thing of value payable to such organization or to an officer, agent, representative or employee thereof as a fee or charge for the unloading, or in connection with the unloading, of the cargo of such vehicle: Provided, That nothing in this paragraph shall be construed to make unlawful any payment by an employer to any of his employees as compensation for their services as employees.

(c) Exceptions

The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be

made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i)

against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under subchapter II of this chapter or this chapter; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959 [29 U.S.C. 401 et seq.]; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.

(d) Penalties for violations

(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000, or imprisoned for not more than one year, or both.

(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than \$15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed \$1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than \$10,000, or imprisoned for not more than one year, or both.

(e) Jurisdiction of courts

The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of section 381 of title 28 (relating to notice to opposite party) to restrain violations of this section, without regard to the provisions of section 17 of title 15 and section 52 of this title, and the provisions of chapter 6 of this title.

(f) Effective date of provisions

This section shall not apply to any contract in force on June 23, 1947, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

(g) Contributions to trust funds

Compliance with the restrictions contained in subsection (c)(5)(B) of this section upon contributions to trust funds, otherwise lawful, shall not be applicable to contributions to such trust funds established by collective agreement prior to January 1, 1946, nor shall subsection (c)(5)(A) of this section be construed as prohibiting contributions to such trust funds if prior to January 1, 1947, such funds contained provisions for pooled vacation benefits.